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Appendix E (Bylaws of the 700 MHz Regional Planning Committee-Region 7 (State of Colorado))

Bylaws of the 700 MHz Regional Planning Committee- Region 7 (State of Colorado)

NAME & PURPOSE

1.1 Name and purpose. The name of this Region shall be Region 7-700 MHz Regional Planning Committee (RPC). Its primary purpose is to foster and promote cooperation, planning, development and evolution of Regional Plans and the implementation of these plans in the 700 MHz Public Safety Band within the State of Colorado.

1.2 Purpose of Bylaws: These bylaws are for governing the general business of the Region 7 700 MHz Regional Planning Committee.

MEMBERS

2.1 Members: For purposes of this document, the term “member,” unless otherwise specified, refers to both voting and non-voting members.

2.2 Members, Election and Qualification. The Regional 7 - 700 MHz Regional Planning Committee shall have two classes of members, “voting members” and “non-voting members.” New members may be added at annual, special, or regular meetings.

(A) Voting Members. Voting members shall consist of one (1) representative from any single Agency, City, District, or Indian Tribe engaged in public safety eligible to hold a license under 47 CFR 90.20, 47 CFR 90.523 or 47 CFR 2.103. Non-voting members have no rights. In voting on any issue, the individual must identify himself/herself and the agency and eligibility category in which he or she represents. Voting members may not vote on issues involving their entity. The Secretary for Region 7 shall be responsible for maintaining voting records, but it is the responsibility of each voting member to notify the Secretary of any membership changes in writing or in electronic form within 30 days. Alternate Voting members shall be acceptable in lieu of the primary voting party. The Alternate member name shall be given to the Secretary in writing. This concerns business of the regional planning committee.

(B) Non-Voting Members. Non-voting members are all other persons interested in furthering the goals of public safety communications.

2.3 Tenure. In general, each member shall hold membership from the date of acceptance until resignation or removal.

2.4 Powers and Rights. In addition to such powers and rights as are vested in them by law, or these bylaws, the members shall have such other powers and rights as the membership may determine.

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2.5 Suspensions and Removal. A member may be suspended or removed with cause by vote of a majority of members after reasonable notice and opportunity to be heard. Region 7 will hold at least two (2) meetings in a calendar year. To retain consistent voting rights, members should attend 50% of the scheduled meetings in a 12-month period. After the date of approval of this Regional Plan by the Federal Communications Commission, all previous attendees are voting members, with the exception of non-voting commercial members. After the acceptance of this Regional Plan, if a voting member or alternate do not attend at least 50% of meetings in a 12-month period that starts on the date of plan acceptance, will lose Region 7 voting rights for either a 6 month period or when the member attends the next Regional Planning Committee meeting, whichever comes first. Attending a meeting is all that is required to immediately reinstate voting members voting rights. The loss of voting rights does not remove a member from active status; it simply requires attendance at a meeting (Special or Regular) to reinstate voting privileges. The voting limitations of an individual have no effect on the voting ability of a public safety entity. The public safety entity reserves the right to send an alternate to vote on issues regarding 700 MHz implementation, or send the original voting member to the next special or regular meeting. A vote of the committee is the final determining factor regarding removal of a member from The Region 7 Planning Committee. A period of 6 months from the first day of removal is required before a removed member is eligible for reinstatement for membership in the Regional Planning Committee.

2.6 Resignation. A member may resign by delivering written resignation to the secretary of the Regional Committee. A resigning member is eligible for reinstatement to the Regional Planning Committee after a period of six months has lapsed, beginning on the first day of resignation.

2.7 Meetings. The Region 7 700 MHz Planning Committee will meet no less than two (2) times per calendar year. One meeting in each calendar year will be held in the Denver metro area. This is centrally located within Region 7 and will provide the maximum opportunity for regional participation. The remaining meeting(s) may be located in a different area within the Region to attract and promote involvement in the committee. Committee meetings will not be held on holidays or weekend days, unless called by the Region 7 Chairperson. At any time and when deemed necessary by the Chairperson, an additional meeting of the Region 7 Regional Planning Committee may be called. Video and/or Audio Teleconferencing may be conducted at meetings to include as many people as possible in the 700 MHz planning process. The use of E-mail will be utilized by members and officers of Region 7 as needed to convey regional issues at hand. It should be noted the use of E-mail and/or video-audio teleconferencing does not remove the voting eligibility requirement of the member to attend at least 50% of the Region 7 annual meetings.

2.8 Special Meetings. The Chairperson has the authority to call a meeting of the Regional Planning Committee when he/she deems it in the best interest of the Region and will provide notice of the special meeting to existing members of the Region (and the public) at least 5 days prior to the meeting. Special meetings of the

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members may be held at any time and at any place within the Regional Committee area. Special meetings of the members may be called by the chairman or by the vice-chairman, or in case of death, absence, incapacity, by any other officer or, upon written application of two or more members.

2.9 Call and Notice. A. Meetings. Reasonable notice of the time and place of scheduled meetings of the members, not being less than 45 days, shall be given to each member. Such notice may specify the purposes of a meeting, but will specify meeting content if required by law or these bylaws or unless there is to be considered at the meeting (i) amendments to these bylaws or (ii) removal or suspension of a member who is an officer. Announcements of meetings, stating the time and place where the meeting is to be held may be published in newspapers and land mobile radio periodicals. In addition, a press release may be issued, urging parties interested in public safety communications to attend. Region 7 will notify the Federal Communications Commission, Chief of the Wireless Telecommunications Bureau, when a meeting time and place has been established for the Region 7 700 MHz Regional Planning Committee.

B. Reasonable and sufficient notice. Except as otherwise expressly provided, it shall be reasonable and sufficient notice to a member to send notice by mail at least five days or by e-mail/facsimile at least three days before any special meetings, addressed to such member at his or her usual or last known business address, or, to give notice to such member in person or by telephone at least three days before the meeting.

2.10 Quorum. At any meeting of the members, a majority of the officers and a minimum of at least two officers and three (3) voting members shall constitute a quorum. Any meeting may be adjourned to such date or dates not more than ninety days after the first session of the meeting by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

2.11 Action by Vote. Each voting member shall have voting authority for their Agency, City, District or Indian Tribe. When a quorum is present at a Region 7 meeting, a majority of the votes properly cast by voting members present shall decide any question, including election to any office, unless otherwise provided by law or these bylaws.

2.12 Action by Writing. Any action required or permitted to be taken at any meeting of the members may be taken without a meeting if a majority of responding members entitled to vote on the matter consent to the action in writing. The written consents are filed with the records of the meetings of the members. Such consents shall be treated for all purposes as a vote at a meeting. These actions shall be limited to purely administrative matters.

2.13 Proxies. Voting members may vote either in person or by written proxy dated not more than one month before the meeting named therein, which proxies shall be

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filed before being noted with the secretary or other person responsible *for* recording the proceedings of the meeting. A RPC member present via teleconference (audio or video) shall have voting status the same as a member present at the meeting. If the facility is unable to accommodate teleconferencing (audio or video), or for any other reason teleconferencing cannot be accommodated in the meeting place, it is the responsibility of the member to attend the meeting in person or to vote by written proxy to have full voting rights. Unless otherwise specifically limited by their terms, such proxies shall entitle the holders thereof to vote at any adjournment of the meeting for which the proxy exists and the proxy shall terminate after the final adjournment of such meeting.

2.14 Special Interest Voting. A voting member cannot have a commercial interest in any of his/her Region and/or adjacent Region's application(s) on which he/she is reviewing, approving and/or voting.

OFFICERS AND AGENTS

3.1 Number and qualification. The officers of the Region 7 - 700 MHz Regional Planning Committee shall consist of a chairman, a vice-chairman, treasurer and a secretary. An officer may not be a member of any subcommittee of the Region 7 700MHz Regional Planning Committee.

3.2 Election. The officers shall be elected by the voting members at their first meeting and, thereafter, at a meeting determined by the membership. The terms of the officers in the Region 7- 700 MHz RPC will be for two **(2)** years. In order to allow for consistency in the plan creation and initialization process, the terms of elected officers will begin on the date of the FCC's approval of the Region 7 plan.

3.3 Tenure. The officers shall each hold office until the biennial election meeting of the members held within two years from the adoption of the Regional Plan, or until their successor, if any, is chosen, or in each case until he or she sooner dies, resigns, is removed or becomes disqualified. In order to promote continuity to the board, election for Chairman and Secretary will occur in even calendar years, and election of Vice Chairman and Treasurer will occur in odd calendar years.

3.4 Chairman and Vice Chairman. The chairman shall be the chief executive officer of the Regional Committee and, subject to the control of the voting members, shall have general charge and supervision of the affairs of the Regional Committee. The chairman shall preside at all meetings of the Regional Committee. The Vice Chairman shall have such duties and powers and work in tandem with the Chairman. The Vice-Chairman shall have and may exercise all the powers and duties of the chairman during the absence of the chairman or in the event of his or her inability to act.

3.5 Treasurer. The treasurer shall be the chief financial officer and the chief accounting officer of the Regional Committee. The treasurer shall be in charge of its

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financial affairs, funds, and valuable papers and shall keep full and accurate records thereof. In the absence of a treasurer within the Region 7 700 MHz Planning Committee, the Chairperson shall assign Region 7 treasurer duties as deemed necessary.

3.6 Secretary. The secretary shall record and maintain records of all proceedings of the members in a file or series of files kept for that purpose, which file or files shall be kept within the Region and shall be open at all reasonable times to the inspection of any member. Such file or files shall also contain records of all meetings and the original, or attested copies, of bylaws and names of all members and the address (including e-mail address, if available) of each. If the secretary is absent from any meeting of members, a temporary secretary chosen at the meeting shall exercise the duties of the secretary at the meeting. In the absence of a secretary within the Region 7 700 MHz Planning Committee, the Chairperson shall assign Region 7 Secretary duties as deemed necessary.

3.7 Suspensions or Removal. An officer of the Region 7 Regional Planning Committee may be suspended with cause by vote of a majority of the voting members in attendance.

3.8 Resignation. An officer may resign by delivering his or her written resignation to the chairman, vice-chairman, treasurer, or secretary of the Regional Committee. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

3.9 Vacancies. If the office of any officer becomes vacant, the voting members may elect a successor. Each such successor shall hold office for the remainder of the term, and in the case of the chairman, vice chairman, treasurer and secretary until his or her successor is elected and qualified, or in each case until he or she dies, resigns, is removed or becomes disqualified.

FREQUENCY ADVISORY SUBCOMMITTEE

4.0 Purpose. The Frequency Advisory Subcommittee will review applications to ensure they comply with all elements of the Regional Plan. This Subcommittee will approve or disapprove all applications in accordance with the established regional plan, and pass that recommendation on to the full Regional Planning Committee for a vote. Applications must be approved before they are submitted to one of the FCC recognized frequency coordinators. The Frequency Advisory Subcommittee's review of the application will NOT be a review to ensure the application meets FCC requirements for filing.

4.1 Members. The Frequency Advisory Subcommittee is constituted as follows: members in the following categories – Subcommittee Chairperson, Subcommittee Vice Chairperson, City Government, County Government, Police Services, Fire

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Services, EMS Services, tribal, State Government and two members at large. The members of the Frequency Advisory Subcommittee are selected by the Regional Planning Committee. The Frequency Advisory Subcommittee shall consist of members that are representative of Region 7; that is that this group has representation from large, small and rural agencies throughout the region.

4.2 Training. Members of the Frequency Advisory Subcommittee shall attend CAPRAD training as soon as is reasonably possible after their election to the subcommittee. Activities of the Frequency Advisory subcommittee will be documented in the CAPRAD database.

4.3 Voting. Each Frequency Advisory Subcommittee member shall have one vote; the majority of the votes properly cast by members present shall decide any question, except that the subcommittee Chairperson will not cast a vote unless necessary to break a tie.

AMENDMENTS

5.0 Amendments. These bylaws may be altered, amended or repealed in whole or in part by vote. The voting members may by a two-thirds vote of a quorum, alter, amend, or repeal any bylaws adopted by the Regional Committee members or otherwise adopt, alter, amend or repeal any provision which FCC regulation or these bylaws requires action by the voting members.

DISSOLUTION

6.0 Dissolution This Regional Committee may be dissolved by the consent of two-thirds plus one of an assembled quorum of the membership at a special meeting called for such purpose. An equal distribution of remaining funds will be made to participating agencies. The FCC shall be notified.

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Regional Planning Committee (RPC 7) Dispute Resolution Process

INTRODUCTION

The Regional Planning Committee for Colorado (RPC 7) is established under section 90.527 of the FCC's rules and regulations which came into effect on April 20, 2001. It is an independent Committee apart from the Federal Communications Commission with authority to evaluate application for public safety uses of the spectrum allocated under FCC Docket 96-86. In addition, appeals from decisions made with respect to a variety of matters regulated by RPC 7 will be heard. The formal requirements of the appeal process are set out below.

In order to ensure that the appeal process is open and understandable to the public, RPC 7 has developed this procedure. Those involved in the appeal process can expect that RPC 7 and its members will follow the procedures (as may be amended from time to time). Where any matter arises during the course of an appeal; that is not dealt with in this document, RPC 7 will do whatever is necessary to enable it to adjudicate fairly, effectively and completely on the appeal. In addition, RPC 7 may dispense with compliance any part or all of a particular procedure where it is appropriate in the circumstances. **As** RPC 7 gains experience, it will refine and, if necessary, change **its** policies. Any changes made to the procedure will require a modification to the Regional Plan for Region 7 (Colorado) and will be made available to the public. RPC 7 will make every effort **to** process appeals in a timely fashion and issue decisions expeditiously.

Appeals Committee

Members

The Regional Chair may organize the Committee into Sub-Committees, each comprised of one or more members, and the Appeals Sub-committee is one of those Sub-committees.

Where an appeal is scheduled to be heard by this Sub-committee the chair is determined as follows:

- (a) if the chair of the Committee is on the Sub-committee, he/she will be the chair;
- (b) if the chair of the Committee is not on the Sub-committee but the vice-chair is, the vice-chair will **be** the chair; and

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(c) if neither the chair nor the vice-chair is on the Sub-Committee, the Regional Committee will designate one of the members to be the chair.

Withdrawal or Disqualification of a Committee Member on the Grounds of Bias

Where the chair or a Committee member becomes aware of any facts that would lead an informed person, viewing the matter reasonably and practically, to conclude that a member, whether consciously or unconsciously, would not decide a matter fairly, the member will be prohibited from conducting the appeal unless consent is obtained from all parties to continue. In addition, any party to an appeal may challenge a member on the basis of real or a reasonable apprehension of bias.

Correspondence (Communicating) with the Committee

To ensure the appeal process is kept open and fair to the participants, any correspondence to RPC 7 must be sent to the Chair and be copied to all other RPC 7 members and other parties to the appeal, if applicable.

RPC 7 members will not contact a party on any matter relevant to the merits of the appeal, unless that member puts all other parties on notice and gives them an opportunity to participate.

The appeal process is public in nature and all meetings regarding the appeal will be open to the public.

THE APPEAL PROCESS

Filing an Appeal

What can be appealed

RPC 7 hears appeals from a determination or allocation and shall include the following: i.e. number of channels assigned, ranking in the assignment matrix, interference, or any other criteria that the region shall establish.

Who can appeal

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*An official of the entity who filed the original application to **RPC 7** must be the person who files the appeal on behalf of the entity.*

How to appeal

A notice of appeal must be served upon **RPC 7**. The notice of appeal may be "delivered" by mail, courier, or hand delivered to the office of the Chair and Members of **RPC 7** as listed in the Official Membership List. **RPC 7** will also accept a notice of appeal by facsimile to the Chair and Secretary with the original copy of the notice of appeal served as indicated above.

Certain things must be included in a notice of appeal for it to be accepted. The notice of appeal **must** include:

1. The name and address of the appellant;
2. The name of the person, if any, making the request for an appeal on behalf of the appellant;
3. The address for service of the appellant;
4. The grounds for appeal (a detailed explanation of the appellant's objections to the determination - describe errors in the decision);
5. A description of the relief requested (What do you want the Committee to order at the end of the appeal?);
6. The signature of the appellant or the appellant's representative.

Time limit for filing the appeal

To appeal a determination or allocation the entity that is subject to the determination must deliver a notice of appeal **within three weeks** after receiving the decision. If a notice of appeal is not delivered within the time required, the right to an appeal is lost. However, **RPC 7** is allowed to extend the deadline, either before or after its expiration based upon a majority plus one vote of **RPC 7**.

Extension of time to appeal

RPC 7 has the discretion to extend the time to appeal either before or after the three week deadline. A request for an extension should be made to the **RPC**, in writing, and include the reasons for the delay in filing the notice of appeal and any other reasons

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which the requester believes support the granting of an extension of time to **file the** appeal. A request for an extension should accompany the notice of appeal.

In deciding whether to grant an extension, RPC 7 will consider whether fairness requires an extension. RPC 7 will take into account the length of the delay, the adequacy of the reasons for the delay, the prejudice to those affected by the delay and any impacts that may result from an extension. Other factors not identified could be relevant depending on the circumstances of the particular case.

Rejection of a notice of appeal

RPC 7 may reject a notice of appeal if:

- (a) it is determined that the appellant does not have standing to appeal; or
- (b) the **Committee** does not have jurisdiction over the subject matter or the remedy sought.

Before a notice of appeal is rejected, RPC 7 will inform the appellant of this in writing, with reasons, and give the appellant a three-week opportunity to make submissions and any potential parties with an opportunity to respond.

Adding parties to the appeal

In addition to the parties mentioned above, RPC 7 has the discretion to add any other person who may be "affected" by the appeal as a party to the appeal. Anyone wanting to obtain party status should make a written request to RPC 7 as early as possible. The written request should contain the following information:

- a. The name, address, telephone and fax number, if any, of the person submitting the request;
- b. detailed description of how the person is "affected" by the notice of appeal and
- c. The reasons why the person should be included in the appeal; and
- d. The signature of the person submitting the request,

Intervener status

RPC 7 may also invite or permit someone to participate in a hearing as an intervener. Interveners are generally individuals or groups that do not meet the criteria to become a party (i.e. "may be affected by the appeal") but have sufficient interest in, or some relevant expertise or view in relation to the subject matter of the appeal.

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Someone wanting to take part in an appeal as an intervener should send a written request to the RPC.

Prior to inviting or permitting a person to participate in a proceeding as an intervener, or deciding on the extent of that participation, RPC 7 will provide all parties with an opportunity to make representations if they wish to do so.

Type of appeal (written or oral) hearing

An appeal may be conducted by way of written submissions, oral hearing or a combination of both. RPC 7 will determine the appropriate type of appeal after a complete notice of appeal has been received.

RPC 7 will normally conduct an oral hearing although it may order that a hearing proceed by way of written submissions in certain cases. Where a hearing by written submissions is being considered by the RPC, RPC 7 may request input from the parties.

Burden of proof

The general rule is that **the** burden or responsibility for proving a fact is on the person who asserts it.

Notification of expert evidence

RPC 7 requires any party that intends to present expert evidence at a hearing to provide RPC 7, and all other parties to the appeal, with reasonable advance notice that an expert will be called to give an opinion. The notice should include a brief statement of the expert's qualifications and areas of expertise.

If a party intends to produce, at a hearing, a written statement or report prepared by an expert, a copy of the statement or report should be provided to the RPC and all parties to the appeal within a reasonable time before the statement or report is given in evidence. Unless there are compelling reasons for later admission, expert reports should be distributed 30 days prior to the hearing date.

Documents

If a party will be referring to a document that was not provided to the RPC and all parties prior to the hearing, sufficient copies of the document must be brought to the hearing for RPC 7 and all other parties.

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APPEALING THE APPEALS SUBCOMMITTEE'S DECISION

If a party is not satisfied with the decision of the Region's Appeals Subcommittee's Decision, he or she can appeal that decision to the 700 MHz National Planning Oversight Committee.